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year at which the term originally commenced and the time at which it ended be not the same, the notice must *prima facie* be made to expire at the former time." Cases cited in support of this proposition are *Doe* v. *Dobell,* 1 Q. B. 806; *Berry* v. *Lindley,* 3 Man. & Gr. 498; *Kelly* v. *Patterson,* 30 L. T. Rep. 842, L. R. 9 C. P. 681. The same rule is stated in substance in WOODFALL, LANDLORD AND TENANT, 12th edit., p. 207 and in 18 HALSBURY, LAWS OF ENGLAND 448. But the principal case expressly repudiates the soundness of such a rule of law when applied to tenancies from year to year created by a holding over after the expiration of a valid lease, and points out that the said rule was expounded in cases where the dates of the original entry and the end of any current year of the implied tenancy necessarily coincided because of the fact that the original term was for exactly one year or two years, etc., and not for a year and a fraction as in the principal case. Therefore, although the statements of the courts in those cases, if taken abstractly and divorced from the peculiar facts with reference to which they were uttered, do support the plaintiff's contention in the principal case, they are no authority for such a proposition when properly considered. The decision in the principal case appears proper. Certainly the implied tenancy from year to year does not commence until the original term terminates and the tenant holds over. Hence, the first day of the holding over must, by necessity, be the first day of the new tenancy. In the principal case the original term expired and the implied tenancy from year to year had inception on Dec. 25, 1916. Therefore, consistency required the court to hold that this new tenancy could be terminated only on some subsequent Christmas Day.—*Right ex dem. Flower* v. *Darby,* 1 Term Rep. 159; *Coudert* v. *Cohn, supra.* The principal case is severely criticized in 146 Law Times 308, wherein the writer assumes that certainty is more important in law than common sense. A diligent examination of the American authorities has failed to reveal any adjudication on the point involved in the principal case. The point is referred to in 2 TIFFANY, LANDLORD AND TENANT, 1451 without a reference to an American decision.

MALICIOUS PROSECUTION—PERJURED TESTIMONY—PRIVILEGE.—In a suit for damages for malicious prosecution, where it appeared that defendant had willfully and maliciously given perjured, though relevant, testimony under oath before a grand jury relating to plaintiff, which originated an inquiry the result of which caused the investigation of the matter by said grand jury, as a result of which proceeding plaintiff was indicted for grand larceny and later acquitted, *held,* that plaintiff might recover. *Kintz* v. *Harriger* (Ohio, 1919), 124 N. E. 168.

Regarding the question whether statements made by a witness in the regular course of a judicial proceeding are privileged or not, and, if so, to what extent, the American rule is that they are privileged provided they are relevant and material to the case, (*White* v. *Carroll,* 42 N. Y. 161; *Smith* v. *Howard,* 28 Ia. 51) or, if irrelevant, have been called out by questions put by counsel to the witness. *Calkins* v. *Sumner,* 13 Wis. 193. The English rule, on the other hand. results in absolute privilege whether the remarks are rele-

vant or irrelevant. *Henderson* v. *Broomhead,* 4 Hurl. & N. 569. The main point, therefore, upon which these cases turn is whether the alleged words are pertinent or not. The instant case deals with this proposition, the Ohio supreme court holding that this is but a distinction without a difference. Mr. Justice Wanamaker, speaking for the Court, in a vigorous opinion referring to Solomon and Shakespeare, as well as Magna Charta and the Constitution, puts the problem upon public policy. He cites no cases to support the conclusion arrived at; yet the argument that these statements do damage, whether relevant to the matter concerning which they are given or not, is founded upon reason and common sense. Somewhat similar to the point here involved is that where the prosecution has been started before a magistrate upon a false and malicious affidavit, in which case, quoting the Court, "the rule is well settled in Ohio * * * that such perjured affidavit can be made the basis of action in malicious prosecution." In the principal case the Court of Appeals had said "There is no decision in Ohio directly on the question. * * * In the cases outside our state, involving the question before us, and by the text-writers, there is complete unanimity touching the doctrine that for the giving of evidence by a witness in a judicial proceeding, so long as such evidence is relevant to the matters concerning which it is given, an action will not lie against the witness, even though the evidence be false, its falsity known by the witness at the time, and that it be maliciously given."

PHYSICIANS AND SURGEONS—NEGLIGENT ADVICE—CAUSE OF ACTION.—Defendant, a physician, was employed by plaintiff to attend plaintiff's minor child. Plaintiff alleged that the defendant, knowing the child's disease was scarlet fever and contagious, negligently advised the plaintiff that it was safe to visit the child; that the plaintiff, not knowing of the contagious nature of the disease, relied upon the defendant's advice, visited the child and contracted scarlet fever to his damage. Defendant demurred. *Held,* that the complaint states a cause of action. *Skillings* v. *Allen,* (Minn., 1919), 173 N. W. 663.

The liability of a physician to respond in damages to a patient who has suffered injury from the physician's negligence is well settled. It is equally well settled that no contractual relation need have existed between plaintiff and defendant, for the liability attaches where the professional services were rendered gratuitously. *McNevins* v. *Lowe,* 40 Ill. 209. A physician is not compelled to respond to the call of a charity patient, but if he undertakes to attend said person, he assumes a duty to use reasonable care. *Becker* v. *Janinski,* 15 N. Y. Supp. 675. "The material fact (to be) alleged in the petition is that the relation of physician and patient existed between plaintiff and defendant at the time of the alleged negligence of the defendant." *Hales* v. *Raines,* 146 Mo. App. 232. But it has also been held that a physician is liable for injuries caused to one whom he was examining merely for the purpose of giving information to a third person and not for the purpose of giving treatment. *Harriott* v. *Plimpton,* 166 Mass. 585. In this case the relation of the plaintiff to the defendant was quite remote, but in *Edwards* v. *Lamb,* 69 N. H. 599, the defendant was held liable where the relation of physician